

Tribal NEW MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding has been made and entered into by and between the Standing Rock Sioux Tribe, Spirit Lake Sioux Tribe, Three Affiliated Tribes, Turtle Mountain Band of Chippewa - Tribal Native Employment Works (NEW) programs, hereafter referred to collectively as Tribal NEW, the North Dakota County Director's Association representing the State's fifty three county social service boards and the North Dakota Department of Human Services (NDDHS) through its Office of Economic Assistance for the purpose of defining the responsibilities of the parties with respect to the administration and coordination of the state's Temporary Assistance for Needy Families (TANF) Program and the Tribal NEW program.

WHEREAS, The NDDHS is the state agency responsible for the administration of the state TANF Program in accordance with North Dakota Century Code Chapter 50-09; and

WHEREAS, 42 USC 607 establishes the work requirements and participation rates that are mandated for each state TANF Program; and

WHEREAS, 42 USC 612 allows federally-recognized tribes to receive a grant for the purpose of operating a Tribal NEW program to make work activities available to the members of those tribes; and

WHEREAS, The NDDHS seeks to meet the federal requirements for work participation by TANF recipients; and

WHEREAS, Tribal NEW seeks to identify eligible recipients who would qualify for participation in the Tribal NEW Program; and

WHEREAS, most TANF recipients are limited to sixty months of benefits in a lifetime creating an urgency for those recipients to become trained for and engaged in meaningful work activities; and

WHEREAS, Tribal NEW, county social services and The NDDHS seek to promote efficiency, coordination, and cooperation in the implementation of welfare reform changes; and

NOW, THEREFORE, it is hereby agreed that, for and in consideration of the mutual promises and benefits to be conferred upon each other as stated above, Tribal NEW, county social services and the NDDHS agree to perform, within fiscal constraints, the following duties to ensure that the administration and coordination of the state TANF Program and the Tribal NEW Program are accomplished to meet the requirements legislated by state and federal statutes.

TERMS OF AGREEMENT

1. Tribal NEW Service Population:

In general, the various Tribal NEW programs in the State agree to serve Native American TANF clients from their own Tribe as well as any other federally recognized Tribe. It is up to each individual Tribal NEW program to decide if their program will provide services only to enrolled Tribal members or if services will also be provided to individuals who are eligible for enrollment in a federally recognized Tribe. For program specific referral criteria, please refer to section ten of this document.

- A. Native American TANF clients, who attending or planning to attend either post-secondary, or vocational education, should be referred to their own tribe's Tribal NEW program regardless of where they are attending school in the State.

Example 1: A Native American TANF client from the Standing Rock Sioux Tribe, who is residing in Ft. Yates, ND, and attending or planning to attend postsecondary education, should be referred to the Standing Rock Tribal NEW program.

Example 2: A Native American TANF client from the from Standing Rock Sioux Tribe, who is residing in Belcourt, ND, and attending or planning to attend postsecondary education, should be referred to the Standing Rock Tribal NEW program.

Example 3: A Native American TANF client from the Standing Rock Sioux Tribe, who is residing in Fargo, ND, and attending or planning to attend postsecondary education, should be referred to the Standing Rock Tribal NEW program.

- B. Native American TANF clients, from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend either post-secondary, or vocational education, should be referred to the Tribal NEW program designated to serve out-of-state tribal members as designated below:

1. Native American TANF clients, from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend post-secondary, or vocational education, in Dickinson, Minot, New Town, or Williston, should be referred to the Three Affiliated Tribes - Tribal NEW program.

2. Native American TANF clients, from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend post-secondary or vocational education in Belcourt, Mayville, or Grand Forks, should be referred to the Turtle Mountain - Tribal NEW program.
3. Native American TANF clients, from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend post-secondary, or vocational education, in Devils Lake, Ellendale, Jamestown, Ft. Totten, Fargo, Valley City, or Wahpeton, should be referred to the Spirit Lake - Tribal NEW program.
4. Native American TANF clients, from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend either post-secondary, or vocational education, in Bismarck or Ft. Yates, should be referred to the Standing Rock - Tribal NEW program.

2. Work Participation Rate:

Based on C.F.R 45 § 261.25 the State may, at its option, choose to include TANF families that are referred to a Tribal work program when calculating the State's work participation rates.

3. Referral Process:

- A. Tribal NEW will, in coordination with the NDDHS, determine referral criteria for the Tribal NEW Program.
- B. Individuals meeting the referral criteria outlined in Section ten (10) of this document shall be referred to Tribal NEW based on the availability of funds and service capacity.
- C. Referred individuals will be allowed up to seven calendar days (as noted by the deadline date in the comments section of the Referral Notice) in which to contact Tribal NEW and schedule an appointment to begin involvement in that program.
- D. The TANF eligibility worker must immediately inform Tribal NEW of the individual's referral and specific deadline date for contacting Tribal NEW by either calling Tribal NEW staff or by faxing them a copy of the Referral Notice.

- E. Tribal NEW staff must immediately contact the county eligibility worker (by phone or email) when an individual has contacted them and scheduled an appointment to begin involvement in Tribal NEW.
- F. If a referred individual fails to contact Tribal New prior to the deadline shown in the comments section of the Referral Notice, Tribal NEW staff must immediately notify the appropriate county eligibility worker via email or by simply faxing a copy of the individual's Referral Notice to the TANF eligibility worker with a notation that the individual failed to make contact as required.

An individual's failure to comply with this requirement may either result in the denial of the individual's TANF application (If the TANF upfront eligibility requirement applies) or a sanction, if good cause is not shown.

- G. The TANF eligibility worker then must contact Tribal NEW to inform them if the individual's application will be denied or if a sanction will be imposed.

The eligibility worker is also responsible to notify Tribal NEW when an individual's TANF application has been denied for failing to comply with the child support enforcement portion of the TANF upfront eligibility requirement.

- H. If, for any reason, an individual is not accepted for enrollment in the Tribal NEW program, Tribal NEW staff must immediately notify the referring county of that fact. The individual will then be referred to the JOBS program, as appropriate.

- I. TANF applicants/recipients who are initially referred to the state JOBS program are to remain with the state JOBS Program until the TANF case to which they are assigned has closed for a minimum of 30 days **unless** Tribal NEW, County Social Services and state JOBS staff determine that a referral to Tribal NEW would be in the best interest of the individual.

For example: involvement in Tribal NEW would increase the individual's potential to obtain employment with a wage great enough to help his or her family become self-sufficient; or the individual will be able to receive a service or be involved in an activity within the Tribal NEW program that is not available to him/her within the state JOBS program.

- J. If Tribal NEW, county social services and state JOBS staff determine that referral of a state JOBS participant to Tribal NEW would be in the individual's best interest, as described above, JOBS staff may refer the individual back to county social services with a recommendation that the individual be referred to Tribal NEW without requiring that the individual's TANF case be closed for a minimum of 30 days.

- K. Direct referrals to the various Tribal NEW programs in North Dakota may be initiated by any county in the state as outlined in sections 1 and 10 of this document.
 - L. TANF applicants/recipients who are initially referred to the Tribal NEW program are to remain with the Tribal NEW program until the TANF case to which they are assigned has closed for a minimum of 30 days; or until they have completed the goals and objectives identified in their Tribal NEW employability plan; or the goals and objectives of their Tribal NEW employability plan are no longer applicable.
4. Participant Employability Plans:
- A. Activities for each TANF Tribal NEW participant will be identified in a Tribal NEW employability plan (EP).
 - B. Tribal NEW shall provide the appropriate county social service office with a copy of each TANF Tribal NEW participants' initial EP no later than 30 calendar days of their referral, by that county, to Tribal NEW. Since the EP identifies an individual's need for child care and transportation assistance, which may be provided through the county, it is very important that the county receive a copy of an individual's EP as soon as possible.
 - C. Tribal NEW will, at minimum, provide updated copies of all ongoing Tribal NEW participants' EPs to the appropriate county social service board office as follows:
 - 1. For individuals participating in educational activities, a copy of their updated EP must be provided to the referring county in the month prior to the first month of each school term;
 - 2. For participants involved in non-educational activities, a copy of an updated EP must be provided to the referring county at least once every 6 months; and
 - 3. For existing Tribal NEW participants who are moving from one area of the state to another; Tribal NEW should send a copy of the individual's revised EP to the new county social service agency prior to the individual's relocation. In this instance, the county is not required to create a new referral since the individual is already in Tribal NEW.
- If the individual's EP is not provided to the receiving county prior to the relocation, the county should contact the appropriate Tribal NEW office to verify that Tribal NEW is still willing to work with this individual and to request a copy of the individual's EP.

- D. All EPs shall identify the Tribal NEW participant's approved activity or activities, scheduled hours, start date for each activity, the expected completion date for each activity, anticipated supportive services provided by Tribal NEW, requests for state childcare and transportation assistance along with written documentation of the participant's need for any supportive services provided through the county/state.

5. Supportive Services:

The NDDHS will provide childcare assistance and transportation assistance to TANF Tribal NEW participants in approved activities, consistent with the rules governing the Child Care Assistance and state JOBS program.

The Tribal NEW program staff will use the participant's EP to describe the participant's need for state childcare and transportation assistance.

6. Good Cause Determination and Sanctions:

- A. If a referred individual fails to contact Tribal NEW prior to the deadline shown on the Referral Notice, Tribal NEW shall immediately return the referral to county social services. The county will then determine if the individual's TANF application should be denied or if the good cause determination process should be initiated and a sanction imposed if good cause is not shown.
- B. If a referred individual makes the initial contact prior to the deadline shown on the Referral Notice but fails to keep her or his scheduled appointment to begin involvement in the Tribal NEW program, the Tribal NEW coordinator is to immediately return the referral to county social services along with a notation that the individual failed to keep her or his initial appointment. The county will then initiate the good cause determination process and impose a sanction, if good cause is not shown.
- C. Once a referred individual keeps her or his initial appointment with Tribal NEW, the individual shall be considered a Tribal NEW participant. If the individual then fails to comply with the requirements of the Tribal NEW employability plan, Tribal NEW staff shall determine if the individual had good cause or an acceptable reason for this failure to comply.
- D. If Tribal NEW determines that the individual had good cause for the failure to comply, a recommendation for sanction will not be made and the individual will be expected to continue her or his involvement in Tribal NEW.

If Tribal NEW staff determines that the individual did not have good cause for the failure to comply, they are to recommend that the county impose a sanction against the individual. Tribal NEW must include a written chronological history of an individual's noncompliance when recommending that the county impose a sanction against a Tribal NEW participant.

A sanction recommended by the Tribal NEW Program will have the same impact on an individual, and will be processed by the County Social Service office in the same manner, as a sanction recommended by the state JOBS program with the exception that: the TANF eligibility worker is responsible to complete the formal good cause determination process.

This means that the eligibility worker will need to send a good cause determination notice to the individual, offer the individual an opportunity to show good cause and determine if good cause exists. The eligibility worker shall then take appropriate action based on the outcome of that process, i.e., impose a sanction or allow good cause.

- E. If the TANF eligibility worker determines that an individual failed, without good cause, to keep the scheduled orientation appointment or failed to participate as required in Tribal NEW, the eligibility worker shall impose a sanction against that individual.
- F. The Tribal NEW program can choose to continue to work with the sanctioned individual or refer the individual back to county social services. If Tribal NEW is no longer willing to work with the individual, the individual shall be referred to the state JOBS program, as appropriate. See Section 7 for additional information on the process of curing a sanction.

7. Proof Performance and Curing Sanctions:

- A. If a TANF Tribal NEW participant is sanctioned and the Tribal NEW program is willing to continue working with the individual within the Tribal NEW program, the individual must cure (correct) the sanction by completing a proof of performance (compliance for a minimum of ten days is required) by the end of the sanction penalty month.

If the sanction is not cured (corrected) as required, the individual's entire TANF case will be closed at the end of the sanction penalty month and both the sanctioned individual and her or his household will be ineligible for TANF in the month following the sanction penalty month.

- B. If a Tribal NEW participant is sanctioned and the Tribal NEW program is not willing to continue working with the individual, the individual will be referred to the state JOBS program.

The sanctioned individual will be required to cure (correct) the sanction by completing a Proof of Performance (compliance for a minimum of ten days is required) by the end of the sanction penalty month.

If the sanction is not corrected as required, the individual's entire TANF case will be closed and both the sanctioned individual and her or his household will be ineligible for TANF in the month following the sanction penalty month.

- C. If it has been determined that a state JOBS participant should be referred to Tribal NEW and the individual needs to cure a sanction, the individual will be allowed to complete the Proof of Performance in the Tribal NEW program.

8. Meetings:

- A. The NDDHS and Tribal NEW staff will meet, at minimum, one time per year to review and discuss issues related to the administration of the state TANF/JOBS and Tribal NEW. County social service representatives will be invited to participate in these meetings, as appropriate.
- B. Tribal NEW staff, Regional Representatives, and staff from the surrounding county social service boards are also encouraged to meet, at minimum on a quarterly basis, with the JOBS contractor to discuss common issues and concerns.

9. Program Specific Referral Criteria:

A. Standing Rock Sioux Tribe, Tribal NEW Program

- 1. The Tribal NEW program will provide services to Native American TANF recipients from the Standing Rock Sioux tribe as well as those who are from out-of-state (federally recognized) tribes as described in Subsection B-4 of Section 1.
- 2. County Social Services shall refer the following individuals to the Standing Rock Tribal NEW program:
 - (a). All Native American TANF recipients, as described in Subsections A and B-4 of Section 1, who have completed high school or a General Education Diploma (GED) and wish to pursue advanced education; or
 - (b). All Native American TANF recipients, age twenty or older, who are residing in Sioux County and have not completed high school or GED.

B. Spirit Lake Sioux Tribe, Tribal NEW Program

1. The Tribal NEW program will provide services to Native American TANF recipients from the Spirit Lake Sioux tribe as well as those who are from out-of-state (federally recognized) tribes as described in Subsections B-3 of Section 1.
2. County Social Services shall refer the following individuals to the Spirit Lake Tribal NEW program:
 - (a). All Native American TANF recipients residing in Benson County who have completed high school or GED and express an interest in further education; and
 - (b). All Native American TANF recipients described in Subsections A and B-3 of Section 1.

C. Three Affiliated Tribes, Tribal NEW Program

1. The Tribal NEW program will provide services to Native American TANF recipients from the Three Affiliated Tribes as well as those who are from out-of-state (federally recognized) tribes as described in Subsection B-1 of Section 1.
2. County Social Services shall refer the following individuals, in order of priority, to the Three Affiliated Tribes Tribal NEW program:
 - (a). All Native American TANF recipients residing in Dunn, McKenzie, McLean, Mercer or Mountrail counties who have completed high school or GED and express an interest in further education;
 - (b). All Native American TANF recipients residing in Dunn, McKenzie, McLean, Mercer or Mountrail counties who are within 12 months of losing TANF eligibility;
 - (c). All Native American TANF recipients, age twenty or older, who are residing in Dunn, McKenzie, McLean, Mercer or Mountrail counties who have not completed high school or a GED; and
 - (d). All Native American TANF recipients described in Subsections A and B-1 of Section 1.

D. Turtle Mountain Band of Chippewa, Tribal NEW Program

1. The Tribal NEW program will provide services to Native American TANF recipients from the Turtle Mountain Band of Chippewa as well as those who are from out-of-state (federally recognized) tribes as described in subsection B-4 of section 1.

Tribal NEW will also serve a child, over age 16, who has dropped out of school and is a dependent of a Tribal NEW participant.

2. County Social Services shall refer the following individuals to the TMBC Tribal NEW program:
 - (a). All Native American TANF caretakers residing within Rolette County, who are ages twenty through twenty-nine, who have not completed high school or a General Education Diploma (GED);
 - (b). All Native American TANF recipients who are attending postsecondary or vocational education and residing in Rolette County; as well as those clients described in Subsections A and B2 of Section 1 of this document.

EFFECTIVE DATE

This Memorandum of Understanding is effective June 1, 2005, and shall remain in effect until one or more of the parties provide written notification of termination. Such notice shall be given to the parties involved at least 30 days in advance of the termination date.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement:

Chairman, Standing Rock Sioux Tribe

Coordinator, Spirit Lake Tribal NEW

Date

Date

Coordinator, Three Affiliated Tribes
Tribal NEW Program

Coordinator, Turtle Mountain Band of
Chippewa – Tribal NEW Program

Date

Date

Director, NDDHS - Public Assistance

Chairperson, County Director's
Association

Date

Date